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6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-499

11 **GLORIA MARIE FOSTER**
12 8130 La Mesa Blvd, #130
13 La Mesa, CA 91941

DEFAULT DECISION AND ORDER

14 Registered Nurse License No. 570034

[Gov. Code, §11520]

15 Respondent.

16 **FINDINGS OF FACT**

17 1. On or about February 23, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her
18 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
19 of Consumer Affairs, filed Accusation No. 2012-499 against Gloria Marie Foster ("Respondent")
before the Board of Registered Nursing. (Accusation attached as **Exhibit A.**)

20 2. On or about August 8, 2000, the Board of Registered Nursing ("Board") issued
21 Registered Nurse License No. 570034 to Respondent. The Registered Nurse License expired on
22 July 31, 2006, and has not been renewed.

23 3. On or about February 23, 2012, Respondent was served by Certified and First Class
24 Mail copies of the Accusation No. 2012-499, Statement to Respondent, Notice of Defense,
25 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
26 and 11507.7) at Respondent's address of record which, pursuant to California Code of
27 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board,
28 which was and is:

1 8130 La Mesa Blvd, #130
2 La Mesa, CA 91941.

3 4. Service of the Accusation was effective as a matter of law under the provisions of
4 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
5 124.

6 5. On or about March 7, 2012, the certified mail was returned by the U.S. Postal Service
7 marked "Attempted not Known." On or about March 15, 2012, the first class mailing was
8 returned by the U.S. Postal Service marked "Undeliverable as Addressed." The address on the
9 documents was the same as the address on file with the Board. Respondent failed to maintain an
10 updated address with the Board and the Board has made attempts to serve the Respondent at the
11 address on file. Respondent has not made herself available for service and therefore, has not
12 availed herself of her right to file a notice of defense and appear at hearing.

13 6. Government Code section 11506 states, in pertinent part:

14 (c) The respondent shall be entitled to a hearing on the merits if the respondent
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts
16 of the accusation not expressly admitted. Failure to file a notice of defense shall
17 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
18 may nevertheless grant a hearing.

19 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
20 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2012-
21 499.

22 8. California Government Code section 11520 states, in pertinent part:

23 (a) If the respondent either fails to file a notice of defense or to appear at the
24 hearing, the agency may take action based upon the respondent's express admissions
25 or upon other evidence and affidavits may be used as evidence without any notice to
26 respondent.

27 9. Pursuant to its authority under Government Code section 11520, the Board finds
28 Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Board's offices regarding the allegations contained in Accusation No. 2012-499, finds

1 that the charges and allegations in Accusation No. 2012-499, are separately and severally, found
2 to be true and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
5 and Enforcement is \$527.50 as of March 20, 2012.

6 **DETERMINATION OF ISSUES**

7 1. Based on the foregoing findings of fact, Respondent Gloria Marie Foster has
8 subjected her Registered Nurse License No. 570034 to discipline.

9 2. The agency has jurisdiction to adjudicate this case by default.

10 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
11 Nurse License based upon the following violations alleged in the Accusation which are supported
12 by the evidence contained in the Default Decision Evidence Packet in this case.:

13 a. Respondent subjected her license to discipline pursuant to Business and Professions
14 Code ("Code") section 2761, subdivision (a)(4) in that the Board of Nursing of the State of
15 Oregon ("Oregon Board") disciplined Respondent's Registered Nurse license in that state. The
16 disciplinary action and the conduct underlying the disciplinary action are described in more
17 particularity in Accusation No. 2012-499, inclusive and herein incorporated by reference.

18 b. Respondent subjected her license to discipline pursuant to section 2761, subdivision
19 (a) of the Code on the grounds of unprofessional conduct in that she failed to respond to the
20 Oregon Board's inquiry regarding reported concerns about her lack of critical thinking skills and
21 multiple narcotic discrepancies. The conduct underlying the disciplinary action is described in
22 more particularity in Accusation No. 2012-499, inclusive and herein incorporated by reference.

23 c. Respondent subjected her license to discipline pursuant to section 2761, subdivision
24 (e) of the Code in that Respondent had multiple narcotic discrepancies while employed as a nurse.
25 The conduct underlying the disciplinary action is described in more particularity in Accusation
26 No. 2012-499, inclusive and herein incorporated by reference.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 570034, heretofore issued to Respondent Gloria Marie Foster, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on July 27, 2012.

It is so ORDERED June 29, 2012



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

51084850.DOC
DOJ Matter ID: LA2012602247

Attachment:
Exhibit A: Accusation No. 2012-499

Exhibit A

Accusation

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Attorneys for Complainant

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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. **2012-499**

11 **GLORIA MARIE FOSTER**

12 8130 La Mesa Blvd, #130
13 La Mesa, CA 91941

A C C U S A T I O N

14 Registered Nurse License No. 570034

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about August 8, 2000, the Board of Registered Nursing issued Registered
23 Nurse License Number 570034 to Gloria Marie Foster ("Respondent"). The Registered Nurse
24 License expired on July 31, 2006, and has not been renewed.

25 **JURISDICTION AND STATUTORY PROVISIONS**

26 3. This Accusation is brought before the Board of Registered Nursing ("Board"),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code ("Code") unless otherwise indicated.

1 4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline
2 any licensee, including a licensee holding a temporary or an inactive license, for any reason
3 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
5 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
6 licensee or to render a decision imposing discipline on the license. Section 2811, subdivision (b)
7 of the Code provides, in pertinent part, that the Board may renew an expired license at any time
8 within eight years after the expiration.

9 6. Sections 118 subdivision (b) of the Code also grants the Board jurisdiction over
10 suspended, expired, forfeited, cancelled, or surrendered licenses:

11 “The suspension, expiration, or forfeiture by operation of law of a license issued by a
12 board in the department, or its suspension, forfeiture, or cancellation by order of the
13 board or by order of a court of law, or its surrender without the written consent of the
14 board, shall not, during any period in which it may be renewed, restored, reissued, or
15 reinstated, deprive the board of its authority to institute or continue a disciplinary
proceeding against the licensee upon any ground provided by law or to enter an order
suspending or revoking the license or otherwise taking disciplinary action against the
licensee on any such ground.”

16 7. Section 2761 of the Code provides grounds for disciplinary action:

17 “The board may take disciplinary action against a certified or licensed
18 nurse or deny an application for a certificate or license for any of the following:

19 (a) Unprofessional conduct, which includes, but is not limited to, the
20 following:

21 ...

22 (4) Denial of licensure, revocation, suspension, restriction, or any other
23 disciplinary action against a health care professional license or certificate by another
state or territory of the United States, by any other government agency, or by another
California health care professional licensing board. A certified copy of the decision
or judgment shall be conclusive evidence of that action.”

24 8. Section 2762 of the Code provides:

25 “~~In addition to other acts constituting unprofessional conduct within the~~
26 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
person licensed under this chapter to do any of the following:

27 (a) Obtain or possess in violation of law, or prescribe, or except as
28 directed by a licensed physician and surgeon, dentist, or podiatrist administer to
himself or herself, or furnish or administer to another, any controlled substance as

defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

(d) Be committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in subdivisions (a) and (b) of this section, in which event the court order of commitment or confinement is prima facie evidence of such commitment or confinement.

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section."

COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Disciplinary Action by the Board of Nursing of the State of Oregon)

10. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4) in that the Board of Nursing of the State of Oregon ("Oregon Board") disciplined Respondent's Registered Nurse license, as follows:

11. On or about November 13, 2007, pursuant to the Notice of Proposed Suspension ("Proposed Suspension") of Registered Nurse License, the Oregon Board proposed to suspend the Respondent's Registered Nurse license on the following grounds:

a) On October 15, 2007, Respondent was reported to the Oregon Board regarding concerns about her lack of critical thinking skills and multiple narcotic

discrepancies while she was employed as a nurse in the ICU at Providence Newberg Hospital. The Oregon Board opened an investigation into the matter.

b) On October 17, 2007, the Board investigator sent Respondent a letter to her address of record requesting that she make an appointment with Oregon Board staff for a personal interview to discuss the matter. She failed to do so.

c) On October 30, 2007, the Board investigator sent Respondent a second letter to her address of record requesting that she make an appointment with Oregon Board staff for a personal interview to discuss the matter. She failed to do so.

12. On or about January 11, 2008, the Oregon Board issued a Final Order by Default ("Order"), ordering the suspension of Respondent's Registered Nurse license for failing to request a hearing to discuss the Oregon Board's Proposed Suspension.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

13. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the Code in that she failed to respond to the Oregon Board's inquiry regarding reported concerns about her lack of critical thinking skills and multiple narcotic discrepancies. The conducted is described in particularity in paragraphs 10 through 12, above, inclusive and herein incorporated by reference.

THIRD CAUSE FOR DISCIPLINE

(Drug Related Transgressions)

14. Respondent is subject to disciplinary action under section 2761, subdivision (e) of the Code in that Respondent had multiple narcotic discrepancies while employed as a nurse. The conducted is described in particularity in paragraph 11, subdivision (a), above, inclusive and herein incorporated by reference.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 570034, issued to Gloria Marie Foster;

2. Ordering Gloria Marie Foster to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: February 23, 2012

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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